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November 24, 2023

VIA ECF

Hon. Philip M. Halpern
U.S. District Court Judge
The Hon. Charles L. Bricant Jr.
Federal Building and United States Courthouse
300 Quarropas Street
White Plains, NY 10601

Re: United States v. Jamaul Aziz, 21-cr-113 (PMH)

Dear Judge Halpern:

Aziz submits this letter in response to the government's letter dated November 22, 2023 (ECF # 192) requesting "clarification of the scope of the evidentiary hearing" ordered by the Court. ECF 191. Aziz disagrees with the government that "the sole area where the defendant has plausibly met his burden of raising a dispute of material fact concerns the manner in which he was searched." ECF # 192 at 2.

Aziz's motion to suppress sufficiently lays out a basis for an evidentiary hearing to resolve factual issues concerning: (i) the car stop; (ii) the search of Aziz's person (iii) the search of Aziz's automobile; and (iv) the voluntariness of Aziz's post-arrest statements. Aziz will not repeat all of his arguments set forth in detail in his motion papers (ECF 103 - ECF 106, 174) but rather will briefly respond to the government's request to narrow the scope of the evidentiary hearing ordered by the Court.

As to the initial car stop, Aziz maintains that there was an insufficient basis on which to stop the vehicle. His sworn affidavit provides that he was not speeding and did not commit any moving violations. ECF 104. The government claims that Aziz's arguments are moot because the state trooper had probable cause to arrest Aziz based on knowledge of alleged undercover buys made from Aziz at the direction of federal law enforcement. This argument is based upon an affidavit (ECF 175) submitted in sur-reply in which Investigator Ranno swears:

In or about December 2020 or January 2021, I participated in a briefing regarding Aziz. During that briefing, I was told that the investigative team had determined that Aziz

was involved in narcotics trafficking, believed that Aziz may be transporting narcotics by car to Sullivan County, and intended to utilize NYSP to conduct a car stop and had probable cause to arrest Aziz.

This affidavit does not impute knowledge of specific undercover buys to Ranno. This belated, thin, convenient affidavit should not be used by the government to deprive Aziz of an evidentiary hearing on whether law enforcement's stop of his vehicle was illegal. Ranno's affidavit not only fails to claim knowledge of undercover buy transactions allegedly committed by Azia, but is tellingly silent on how Ranno established that the subject of this "December 2020 or January 2021" briefing and the driver he stopped on January 7, 2021 was the same person.

As to the search of Aziz after the car stop, Aziz maintains that the warrantless search of his person and automobile violated his Constitutional rights. The government does not dispute that Aziz has made a sufficient showing for an evidentiary hearing as to the legality of the search of Aziz's person. Aziz is, however, entitled to a hearing on both the search of his person and of the search of his red 2019 Kia Forte which was searched illegally without a warrant.

Finally, as provided in Aziz's affidavit submitted with his motion, he alleges law enforcement violated his right to remain silent. While the government is correct that Aziz does not dispute that the post-arrest statement is recorded on video, Aziz does not waive his right to an evidentiary hearing to determine the voluntariness of his statements unless the Court is prepared to rely on the video to find that Aziz invoked his 5th Amendment right without the need for a hearing and in turn suppressing his statements recorded on video.

Aziz incorporates by reference his arguments made in ECF document 174 in further support of a full evidentiary hearing required by Aziz's motion to suppress. ECF 103 - ECF 106.

Respectfully submitted,



Daniel A. Hochheiser

cc: All Parties (via ECF)